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In the Supreme Court of the United States

OCTOBER TERM, 1983

JAMES DAVIS SORRELS,

PETITIONER

VERSUS

J. RAY McDERMOTT, INC.,

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Was the verdict of the jury herein, arrived at through a misconception by the jury of its role in computing the total amount of damages due to the petitioner in that they, contrary to the instructions of the trial judge, computed the effect of the percentage of petitioner's negligence on the damage award and reduced the award due petitioner in the interrogatories it answered and that the trial judge again reduced the damage award by the amount of petitioner's negligence as set by the jury thereby resulting in the petitioner's damage award being reduced twice in accordance with his assessed percentage of negligence?

2. Was the verdict of the jury inadequate and did it compensate the petitioner for his damages?

3. The verdict of the jury was incorrect in assessing the petitioner's contributory negligence?

LIST OF INTERESTED PARTIES

The undersigned counsel of record for the defendant-appellee certifies that the following listed parties and organizations have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualifications or recusal.

1. James D. Sorrels

2. McDermott, Inc.

3. Insurance Company of North America

By: _____
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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

JAMES DAVID SORRELS,
PETITIONER

VERSUS

J. RAY McDERMOTT, INC.,
RESPONDENT

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered in August 26, 1983.

OPINION BELOW

The opinion of the Court of Appeals is not yet reported. It affirmed a judgment of the district court awarding petitioner damages for injuries he sustained as seaman while employed by respondents. Petitioner's case was tried in the District Court by a jury and there is no opinion of that court.

JURISDICTION

The judgment of the Court of Appeals printed in Appendix A hereto was entered on August 26, 1983. The jurisdiction of the court is invoked under 28 U.S.C. Section 1254 (1).

THE QUESTIONS PRESENTED

1. Was the verdict of the jury herein, arrived at through a misconception by the jury of its role in computing the total amount of damages due to the petitioner in that they, contrary to the instructions of the trial judge, computed the effect of the percentage of petitioner's negligence on the damage award and reduced the award due petitioner in the interrogatories it answered and that the trial judge again reduced the damage award by the amount of petitioner's negligence as set by the jury thereby resulting in the petitioner's damage award being reduced twice in accordance with his assessed percentage of negligence?

2. Was the verdict of the jury inadequate and did it compensate the petitioner for his damages?

3. The verdict of the jury was incorrect in assessing the petitioner's contributory negligence?

STATEMENT

This is a seaman case under the Jones Act. The petitioner-appellant in this case was injured twice while aboard the defendant's derricck barge, "DB-16". The first injury was sustained only two weeks after he had gone to work offshore for the first time, when he tripped over an air hose left on the deck and fell, resulting in a broken arm. The second injury occurred some months later on his first trip offshore when petitioner jumped from an air hammer used to drive large pipe in the Gulf. Upon reaching the deck, the plaintiff hurt his back resulting in a ruptured disc, which was operated on and removed. The jury returned a verdict finding the defendant, McDermott, negligent on both

occasions. It also found the plaintiff contributory negligent with regards to the arm injury in the amount of seventy-five percent (75%). It further found the plaintiff ninety percent (90%) negligent with regards to the second injury resulting in the injury to his back.

The jury awarded petitioner FORTY THOUSAND EIGHT HUNDRED FIVE AND 18/100 DOLLARS ($40,805.18) and calculated that seventy-five percent (75%) of this award was to compensate him for his first injury and that twenty-five percent (25%) was to compensate him for the second.

Prior to the final arguments of counsel, the court gave an extemporaneous charge to the jury relative to the forms of the special interrogatories to be employed in the resolution of this matter. (Trans. 392-396) (See Appendix "B" of this writ for a copy of the Special Interrogatories.)

Subsequent to closing arguments, the Court gave a more detailed instruction as to the jury's responsibilities especially in relation to the special interrogatories.

In so doing, the court's instructions included the following statements:

> "...if you find that McDermott was guilty of negligence which contributed in whole or in part to either accident, or was guilty of unseaworthiness in either accident, then of course *you will have to find out how much in dollars and cents.*" (Trans. p. 395 lines 19-23) (Emphasis supplied)
>
> "If you find, for instance, that the accident was due fifty percent (50%) to the petitioner's fault and fifty percent (50%) to the defendant's fault,

then that would result in the award being reduced by me fifty percent (50%). If you were to find that the defendant was ninety percent (90%) responsible and the petitioner ten percent (10%) responsible, then the award would be reduced ten percent (10%). And I am not suggesting any figures like that. But I am giving you that as an example. But I am the one who would do that. You would simply find the amounts. But I reiterate. You and you alone determine whether there is any liability at all and if so, how much." (Trans. p. 402, lines 24 to p. 403, line 10.)

"Now, you alone determine whether McDermott owes Mr. Sorrels anything. You can hold that they don't owe him a penny. And you can hold that they owe him a lot of money. Or you can hold that they owe him a little money." (Trans. p. 407, line 22 to p. 408, line 1.)

"You and you alone make a determination whether to give this man anything, and if so, how much." (Trans. p. 411, line 1 & 2.)

"...then decide if there is liability whose fault was it and how much money you are going to give this man." (Trans. p. 411, lines 10-12.)

Finally, the jury retired for its deliberation. (Trans. p. 412.) The Special Interrogatory sheet was tendered to the jury.

The court, in an effort to more fully explain the jury's role as fact finders, wrote the following on the final page:

"But, if you answer 1, or 4, or 7, or 8 in the affirmative (yes) then you must decide the issue of how much money to award plaintiff." (See Record pp. 343-345 at p. 345.)

The jury returned the verdict previously mentioned; they were polled and asserted that the verdict was theirs. (Trans. p. 417-418.) Then, the jury was excused (Trans. p. 418.) and the Court reduced the jury's award in accordance with the jury's percentage findings of contributory negligence, and awarded judgment in favor of the petitioner in the amount of EIGHT THOUSAND SIX HUNDRED SEVENTY-ONE AND 10/100 ($8.671.10) DOLLARS. (See Appendix "B")

REASONS FOR GRANTING THE WRIT

This petition raises substantial and important issues dealing with the federal civil procedure and proper allocation of the comparative negligence in a Jones Act suit.

1. THE INTERPRETATION OF THE VERDICT OF THE JURY AND;

2. THE INADEQUATE VERDICT.

An examination of the jury's verdict shows that the plaintiff award was reduced twice, once by the jury and a second time by the judge, due to the jury's mistaken understanding of their role in the assessment of damages.

Clearly, the quantum verdict specified in Interrogatory Number is a net figure. As such, it should not have been reduced by the trial Court in rendering judgment.

The fact that petitioner neglected to urge resubmission of the interrogatories to the jury prior to discharge does not preclude raising the issue on Appeal. *Alverez v. J. Ray McDermott and Company, Inc.*, 674 F.2d 1037 (5th cir.

1982); Federal Rules of Civil Procedure Rule 49(a).

The Court's instructions to the jury, save for the one rather contradictory and oblique instruction (Trans. pp. 402-403), wherein the Court asserts the relative responsibilities of Court and Jury, are replete with statements suggesting that the jury was to determine quantum, or in the words of the court, "...how much money *you* are going to give this man." (Trans. p. 411) (Emphasis Supplied)

More importantly, the Court's handwritten instruction on the special verdict sheet clearly indicated in the minds of the jury that *they were to arrive at an amount of money to award the petitioner.*

The rather strange sum supplied by the jury was apparently arrived at through sum tortuous series of calculations, and bolsters petitioner's theory that the verdict represents a net rather than gross award.

Finally, there can be no doubt that the petitioner in this matter suffered grave and serious injuries. Even if the petitioner's claims for loss of future wages were totally disbelieved by the jury, the claims for pain, suffering and disability are supportive of a much higher award than that rendered herein even if that award was a gross figure.

Finally, this tribunal is, as a result of this appeal, faced with two alternatives.

Obviously this Court can affirm the verdict and judgment rendered herein. In so doing, however, the Court would have to accept an award of $40,805.18 as compensation for the severe injuries sustained by the petitioner. In other words, if the jury verdict is affirmed as a gross

amount, this Court would be, in a sense, approving an award which is shocking to the conscience in light of the severe injuries sustained by the petitioner. Such an award would be, it is respectfully submitted, woefully inadequate.

This Court could however, recognize that the verdict rendered was a net figure arrived at by the jury as a result of the instructions given by the trial Court and the resulting misconception of their role in determining the amount of damages to be awarded.

If this is the option selected, this tribunal must then be faced with two further alternatives.

First of all the court could recognize that the verdict is in point of fact a net figure and enter an order awarding petitioner that amount.

In the alternative, this Court could recognize that the award was arrived at through a misconception of the lower Court's instructions. If this is the case, the Court must consider that the jury herein perceived the instructions incorrectly in toto. As such, the proper resolution of the matter would be to remand to the lower Court for a second trial.

The latter course of action, it is respectfully submitted, would be the most appropriate under the circumstances.

THE DEGREE OF PETITIONERS CONTRIBUTORY NEGLIGENCE

On appeal, the petitioner-appellant argues that the allocation of seventy-five percent (75%) and ninety percent

(90%) contributory negligence to the plaintiff for each accident is contrary to the law and evidence applicable to the case.

LAW AND ARGUMENT

The duty owed a seaman by his employer under the Jones Act is, of course, heavy, and on the other hand, the duty of a seaman not to injure himself is light. *Ceja v. Hooks*, 690 F.2d 1191; 5th Cir. Ct. of App. (1982) In *Ceja* the Fifth Circuit stated that:

> "In Contrast to the broad duty imposed upon a vessel owner to supply a safe work place, the seaman's duty to protect himself is slight. Although the seaman has a duty to use reasonable care, this duty is tempered by the realities of maritime employment, which have been deemed.....to place large responsibility for his safety on the owner.
>
> Generally, a seaman has no duty to find the safest way to perform his work. His duty is to do the work assigned, not to find the safest method of work. Rather the duty to provide for a safe course of conduct lies primarily with the vessel owner. A seaman, therefore, is not contributorily negligent merely because he uses an unsafe tool or appliance or proceeds in an unsafe area of the ship. Only where it is shown that there existed a safe alternative available to him of which he knew or should have known, can a seaman's choice of an unsafe course be properly considered in determining whether he was negligent." *Ceja*, pp. 1193 to 1194.

In *Ceja* the court reversed the finding of 75% contributory negligence on the part of the seaman by the jury

remanded the case for further consideration in light of the seaman's "inexperience or youth". (See *Ceja*, footnote No. 7, p. 1196)

Plaintiff submits that in the present case the jury committed error in assessing his contributory negligence to be 75% and 90% for each accident in light of his inexperience at sea.

The First Accident (Hose Accident)

The facts at trial showed that the plaintiff had no prior experience on a derrick barge or in offshore work. In fact, he had been working aboard the DB-16 only two weeks when the first accident took place, (T. p. 273) when he tripped over a hose on the deck of the DB-16 late one night. He testified that the area was dark and not well lit and that the red and white steam hose he tripped on was well used and discolored so that it became hard to see. (T. p. 278-280)

The plaintiff argues that the jury committed error in not finding the barge unseaworthy in that the hose had been left on deck due to a lack of good housekeeping procedure about the barge. Further, it is clear that the defendant was also negligent as the jury found. However, the jury erred in finding the plaintiff 75% contributory negligent.

On cross-examination of the plaintiff, the defendant pointed to the plaintiff's application on the issue of his experience. The defendant showed that the plaintiff had put on his application that he had experience as a "roustabout" for two or three years, and argued this means offshore experience. No where on his application does he indicate that

he was a "rigger" which in terms of oilfield work has a different connotation as testified to by the defendant's own employees. (T. p. 380) Further, nowhere on his application did the plaintiff indicate that he had any offshore experience aboard a derrick barge, although he did mention that he worked for other oil related companies. A copy of plaintiff's application is attached to this brief and clearly shows an application which can be interpreted many ways. First, note the heavy black vertical line separating "occupation applied for" and "years experience". In addition, note that the plaintiff wrote in "roustabout" above the "4" he placed in the blank for years experience.

Based on this application, the defendant argued the plaintiff lulled the defendant into the belief that they had an experienced offshore rigger. Tha application is in the record. A fair reading clearly shows that the plaintiff described himself as a roustabout and not a rigger.

In any event, this argument misses the point entirely. Nowhere on the application is there any statements by the plaintiff that he *even* had any experience working aboard a derrick barge. Instead, it is clear from the application that he was a man of very limited offshore experience with no experience aboard a derrick barge. In light of the plaintiff's inexperience offshore aboard a derrick barge, the jury erred in not finding the DB-16 unseaworthy and in finding the plaintiff negligent. If the plaintiff had been experienced and had been on the derrick barge more than a couple of weeks, then 75% contributory negligence might be proper. Due to plaintiff's inexperience, 75% is far to great an assessment of contributory negligence and should be reduced or eliminated.

The Second Accident (Hammer Accident)

The second accident took place when the plaintiff jumped from a hammer and injured his back. This accident took place on plaintiff's first hitch aboard the DB-16 after the hose incident. In this incident, the plaintiff jumped some three to four feet from the top of a steam hammer to the deck of the DB-16 after unhooking some hoses. At trial the defendant contended that alternatives to jumping were available, such as use of a ladder of which the plaintiff was aware. The fallacy of this argument is that there is testimony both from the plaintiff (T. p. 346) and from the defendant's own employees that they often jumped from these hammers. (T. pp. 47, 134 & 135)

When considered in light of plaintiff's short time aboard a derrick barge and plaintiff's inexperience offshore, and particularly aboard a derrick barge, it is clear that the jury's assessment of 90% contributory negligence is in gross error. Although alternatives to jumping existed in this case, the defendant's own employees set a bad example for the inexperienced plaintiff who chose to follow the actions of the more experienced seamen, which he reasonably, as would any reasonable man, believed to be safe and approved. It should be noted here that the plaintiff was never told not to jump. Further, defendant's own employee, Mr. Gotreaux, described the hammer in question as oily, greasy and hot (due to steam). Mr. Farmer, an employee of the defendant, specifically stated that he always jumped from this size hammer and never used a ladder. (T. p. 135).

In summary, the plaintiff in this case found himself on top of a greasy, oily and hot hammer. In such a position of peril he elected to follow a course of action *which had*

been endorsed by the defendant's own employees, that of jumping. Despite whatever merit defendant's argument about plaintiff's application may have or not have, the controlling issue in this case is that the act of the plaintiff in jumping was that of an unexperienced seaman, which act was fostered by the defendant's own experienced employees. To now penalize the plaintiff by assessing his contributory negligence to be 90% disregards the law as stated by this Court in *Ceja* and disregards "....the realities of maritime employment..." (*Ceja* page 1191)

CONCLUSION

The jury erred in this case. First, it was error for the jury to find that the petitioner was negligent to degree of 75% and 95%. Second the jury and the trial judge compounded the initial error and penalized the petitioner twice, the jury reducing his award the first time and the trial judge a second. This case should be remanded to the District Court for a new trial so that all issues may be clearly resolved.

By Counsel:

BORNE, SENETTE & SENETTE
ATTORNEYS FOR PETITIONER
709 MAIN STREET
P.O. BOX 1008
FRANKLIN, LOUISIANA 70538

By: _____
WALTER J. SENNETTE, JR.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served on all counsel of record by placing a copy of same in the United States mail, postage prepaid on this _____ day of _____, 1983.

_____

WALTER J. SENETTE, JR.

APPENDIX "A"

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 82-4509
Summary Calendar

JAMES DAVIS SORRELS,

Plaintiff-Appellant,

versus

J. RAY McDERMOTT & COMPANY, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the Western District of Louisiana

---

(AUGUST 26, 1983)

Before GEE, RANDALL, and TATE, Circuit Judges.

TATE, Circuit Judge:

Under the Jones Act and general maritime law, James Sorrels, employed by J. Ray McDermott & Co. as a crew member of the Derrick Barge 16, sued his employer for injuries sustained in two accidents while working as a rigger aboard the vessel. The jury fixed Sorrels damages at $40,805.18, attributing 75% to the first accident and 25% to the second. The jury further found that Sorrels' own

negligence had made a 75% contribution to the first accident and a 90% contribution to the second. The court calculated a reduction in Sorrels' award in accordance with the jury's findings of contributory negligence and entered judgment in the amount of $8,671.10. On appeal, Sorrels contends that the jury's damage findings represented a net rather than a gross figure that should not have been further reduced by the court. Sorrels also contends that the jury's findings of contributory negligence were excessive as a matter of law, that the award was inadequate, and his motion for a new trial (made during the week following trial) on those grounds was denied in error. McDermott maintains that Sorrels' failure to object to the jury instructions or seek clarification from the jury before its discharge by way of a supplemental interrogatory, forecloses appellate review of whether the jury's damage findings were net or gross. We affirm.

I.

In cases involving ambiguous or inconsistent jury answers to special interrogatories this circuit has held an aggrieved party may request an additional interrogatory be submitted to the jury to resolve an allegedly inconsistent or ambiguous response. Alverez v. J. Ray McDermott & Co., Inc., 674 F.2d 1037, 1040-1041 (5th Cir. 1982). The failure to do so, however, does not foreclose appellate review of any claimed inconsistency or ambiguity. *Id.*

We therefore reach the plaintiff Sorrels' contention that the jury verdict on its face resulted, in the light of the instructions, from an obvious miscalculation that produced an inadequate award of damages. We note, however, that if the issue had been raised before the jury was discharged, instead of by a motion for new trial subsequently filed,

immediate clarification could most possibly have been secured.

II.

The special verdict permitted by F.R. Civ. P. 49(a) allows the trial judge considerable latitude in framing factual issues for jury consideration. Here, the plaintiff Sorrels entered no objection to the special interrogatories or the instructions. The allegedly misleading nature of the instructions is therefore ordinarily not a matter for appeallate review, Fed.R.Civ.P. Rule 46; nor, for that matter, do we find reversible deficiency in the respects argued.

In the present case the jury was asked to consider a seaman's suit of slightly greater than usual complexity as it involved *two* accidents alleged to have permanent effects. Each accident had to be separately considered by the jury as to the plaintiff's Jones Act and general maritime claims, and as to the parties' respective negligence. The jury was also required to apportion between the two accidents, each accident's contribution to the plaintiff's damages.[1]

The issue of the plaintiff's damages, was not in itself, the cause of any complexity. The plaintiff's arm was broken when he tripped over a hose during horseplay with a fellow worker in the first accident, and in the second accident he sustained back injuries in jumping a few feet from the top of a hammer to the barge's deck (according to testimony, a common means of dismounting lower hammers aboard the barge, among younger workers generally accomplished without mishap).

Under the evidence, the jury could reasonably have

found the defendant employer's negligence relatively slight in both the first accident (the allegedly inconspicuous hose over which the plaintiff Sorrels tripped in horseplay) and the second accident (the alleged failure to instruct the plaintiff Sorrels of the danger of jumping down three-four feet from the hammer, instead of sitting and gently sliding down, so as to avoid the possibility of injuring his back; or the failure to have a ladder available). As noted, the jury found that Sorrels' own negligence had contributed 75% to the first accident and 90% to the second.

As the plaintiff argues on appeal it, may appear in retrospect that it might have been prudent for the trial court to frame its interrogatory on quantum so that the jury would be reminded of the court's charge that the *court* would be the one to reduce an award to reflect findings of contributory negligence,[2] not the jury.

Similarly, as argued, the court in its charge might have explained to the jury at greater length, or with greater clarity, that the jury's quantum findings were to be a gross figure from which the court would later make any necessary reduction for findings of contributory negligence. In the context of the charge read as a whole, we cannot, however, conclude that the jury misunderstood the court's intention, and failed to follow the charge as given.[3] However, no objection was made to the instructions as given, and the issue of jury misinterpretation was presented to the trial court which with its better opportunity to assess the possibility of such error in the light of the demeanor evidence and of observation of this particular jury, rejected it. *See* Alverez v. J. Ray McDermott & Co., *supra*, 674 F.2d at 1046.

While the plaintiff's conjecture of error is plausible

when his claim of serious back injury and the jury's award of $40,805 is viewed in the light of findings of 75% - 90% contributory negligence, other reasonable inferences are equally plausible. Under its permissible weighing of the evidence, the jury may simply have found this award sufficient for all damages sustained by the plaintiff in both accidents. The jury might well have rejected the plaintiff's claims of substantial lost future wages in view of his extremely brief career as an offshore worker. Similarly (and a plausible explanation for the jury's finding that the plaintiff's back injury contributed only 25% of his injury and his broken arm 75%), the jury may have concluded that the residual from the plaintiff's back injury and resulting disabilities were much less than claimed. Rational explication of the jury's verdict being available, we do not consider the plaintiff's showing adequate to substantiate his contention of jury misunderstanding and error. The award complained of is thus, further, not plainly inadequate as to be an abuse of the jury's discretion in the matter.

III.

The plaintiff's remaining contention that the jury's findings of 75% and 90% contributory negligence were excessive, we find similarly lacking in merit. As earlier noted, the jury may reasonably have found the defendant's negligence comparatively slight, so that the substantially major cause of the accidents was the imprudences of the plaintiff.

We note further that the argument that the plaintiff's offshore inexperience, which in light of the facts of the case and the circumstance of each injury (tripping while engaged in horseplay; jumping from a modest height), appears to have been a negligible factor at best in causing

such injury, was a fact that was presented to and apparently rejected by the jury. Ceje v. Mike Hooks, Inc., 690 F.2d 1191 (5th Cir. 1982), upon which the plaintiff relies to contend that the jury's findings of contributory negligence were excessive because of his inexperience, we find inapposite. That case involved a bench trial, in which the court made specific findings of fact and conclusions of law, (in part erroneous in holding the plaintiff to a higher standard of self-care that the law provided). In contrast, here, the jury's verdict depended upon factual conclusions and inferences which can only be guessed at. There, the injury involved was caused by an agency that would have been obvious to an experienced seaman but was entirely unexpected to that inexperienced plaintiff (injured when an inadequately tied towing line suddenly broke loose from a towing bit the plaintiff was standing near). *Id.* at 1193-95. Here, there was no showing of a non-obvious danger that this plaintiff would have avoided with more experience.

Accordingly, the judgment of the district court is AFFIRMED.

AFFIRMED.

XXX

[Footnotes appended]

APPENDIX "B"

[1] SPECIAL INTERROGATORIES TO THE JURY

We, the jury in the above-entitled action, find from a preponderance of the evidence as follows:

INTERROGATORY NO. 1

Was McDermott guilty of the negligence which contributed in whole or in part to plaintiff's injury of November 24, 1978?

Answer "Yes" or "No" ANSWER: Yes

INTERROGATORY NO. 2

Was the plaintiff guilty of negligence which contributed in whole or in part to the injury of November 24, 1978?

Answer "Yes" or "No" ANSWER: Yes

If your answer to question No. 2 is "Yes", then answer number 3; if your answer to question No. 2 is "No", then, of course, you should ignore question No. 3.

INTERROGATORY NO. 3

To what extent, expressed as a percent, did plaintiff's negligence contribute to his injury of November 24, 1978?

Answer in percentage ANSWER: 75%

INTERROGATORY NO. 4

Was McDermott guilty of negligence which contributed in whole or in part to plaintiff's injury of March 30, 1979?

Answer "Yes" or "No" ANSWER: Yes

INTERROGATORY NO. 5

Was the plaintiff guilty of negligence which contributed in whole or in part to the injury of March 30, 1979?

Answer "Yes" or "No" ANSWER: Yes

INTERROGATORIES CONTINUED

If you have answered question No. 5 in the affirmative, then proceed to question No. 6. If your answer to Interrogatory No. 5 is in the negative, then ignore question No. 6.

INTERROGATORY NO. 6

To what extent, expressed as a percent did the plaintiff's negligence cause his March 30, 1979 injury?

Answer in percentage. ANSWER: 90%

INTERROGATORY NO. 7

Was unseaworthiness on the part of the McDermott vessel a proximate cause of plaintiff's injury of November 24, 1978?

Answer "Yes" or "No" ANSWER: No

INTERROGATORY NO. 8

Was unseaworthiness on the part of the McDermott vessel a proximate cause of plaintiff's injury of March 30, 1979?

Answer "Yes" or "No" ANSWER: No

INTERROGATORY NO. 9

What amount of money will fairly compensate the plaintiff for his injury?

Answer in figures. ANSWER: $40,805.18

INTERROGATORY NO. 10

To what extent does this amount of money compensate the plaintiff for his November 24, 1978 injury, and to what extent does this total in question 9 compensate the plaintiff for his March 30, 1979 injury? NOTE: The two percentages should add to 100%

ANSWER: 75% Nov. 24, 1978

25% March 30, 1979

INTERROGATORIES CONTINUED

We, the jury, have unanimously answered the above and foregoing interrogatories as indicated above, and herewith return same into open court as our verdict.

s/ _____
Foreperson of the Jury

Lafayette, Louisiana,

October 6, 1982

---

[2] This was accomplished by the trial court in Miller v. Royal Netherlands Steamship Co., 508 F.2d 1103, 1106 n. 4. (5th Cir. 1975):

> What amount do you find would fairly and adequately compensate plaintiff for his injury? (This must be the total amount of the damages without regard to the degree of plaintiff's negligence, if any. The court apportions the damages).

[3] In explaining the jury's task, the judge charged:

> If you were to find that the defendant was ninety percent responsible and the plaintiff ten percent responsible, then the award would be reduced ten percent. And I am not suggesting any figures like that. But I am giving you that for an example. But I am the one who would do that. You would simply find the amount.

XXX

EXHIBIT

DEPOSITION EXHIBIT
Sorrells #1

J. RAY McDERMOTT, INC.
DOMESTIC OPERATIONS
EMPLOYMENT APPLICATION

PRINT ALL QUESTIONS
CLEARLY

James	David	Sorrells	Jr.	425-74-3962
151	Meadow Lane	Brandon	MS 39042	601-825-5111

OCCUPATION APPLIED FOR

1st Choice	Crewman (Deckhand) Either	Date of Pay Expected $ Open	Yrs. Exp. 4
2nd Choice	Welder's Apprentice (Deckhand)	Date of Pay Expected $ Open	Yrs. Exp. 2
Primary Skill	Oiler, Greaser, Roustabout, Police or Security		Yrs. Exp. 10
Secondary Skill	Painter - Photographer		Yrs. Exp.
Special Licenses	American Red Cross Multimedia First Aid Card		Yrs. Exp. 6

PREVIOUS EMPLOYMENT

WORK WITH PRESENT OR LAST EMPLOYER AND WORK DUES 5 YEARS	DATES EMPLOYED	OCCUPATION	RATE OF PAY	REASON FOR LEAVING
Florence Police Dept. P.O. Box 187 Florence, Miss	From July 1977 To May 1978	Police Sgt. Supervisor	$700 mo	More Pay
Univ. of Miss. Med. Center 2500 N. State St. Jackson, MS	From Mar. 1973 To June 1977	Police Sgt. Supervisor	$600 mo	" "
	From To			
	From To			
	From To			
	From To			
	From To			
	From To			

CONTINUED ON BACK

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~~3875~~

EDUCATIONAL BACKGROUND

	Name of School	Years Attended	Graduated?	Degree or Diploma
Grade School	Delaware, MS	8	Yes ☐ No ☐	General
High School	Delaware High, Delaware, MS	4	Yes ☐ No ☐	General
College	Kemper Military School, Boonville, MO + ICS	4	Yes ☐ No ☒	Eng. major (Civil)
Post Graduate		4	Yes ☐ No ☐	
Business or Trade			Yes ☐ No ☐	
Other			Yes ☐ No ☐	

MILITARY SERVICE RECORD

Were you ever served in the armed forces? Yes ☑ No ☐ If yes, what branch? USAF

Date of Duty: From June 30 1956 to July 15 1960 Type of Discharge Honorable

What were your duties (include special training)? Records Clerk Specialist

List Relatives Working for McDermott	Relationship	List Friends Working for McDermott
None		Dante Melancon

Have you ever worked for McDermott before? Yes ☐ No ☒ If yes, when?

Have you ever been hospitalized for any reason? Yes ☒ No ☐ If yes, explain Nose operation (Chest Physical Football (1958). Tonsilectomy (1954)

Have you ever received compensation for injuries? Yes ☐ No ☒ If yes, explain

Are you willing to work weekends and holidays? Yes ☒ No ☐ If No, explain

Are you subject to vaccinations? Yes ☐ No ☒

Are you willing to work at heights? Yes ☒ No ☐

Have you ever been convicted of a crime? Yes ☐ No ☒ If yes, explain fully

Do you have any physical handicaps which would prevent you from performing specific kinds of work? Yes ☐ No ☒ If yes, describe the defect(s) and explain the work limitations

How were you referred? Employee at Co. told me about Co. Con Accredit

Interviewer's comments — Date

PLEASE READ CAREFULLY — APPLICANT'S CERTIFICATION AND AGREEMENT

I hereby certify that the facts set forth in the above employment application are true and complete to the best of my knowledge. I understand that if employed, falsified statements on this application shall be considered sufficient cause for dismissal. You are hereby authorized to make any investigation of my personal history and financial and credit record through any investigative or credit agencies or bureaus of your choice.

Date 9-11-78 Signature of Applicant James Dante Melancon

NOTE: The Privacy Act of the Fair Credit Reporting Act may be applicable if a credit report of the applicant is requested and considered.